IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

EUGENE DIVISION

KY KARNECKI,

Plaintiff,

vs.

CITY OF SISTERS, Oregon; et al.,

Defendant.

Case No. 6:13-cv-02150-TC

ORDER

AIKEN, Judge:

On October 25, 2017, Magistrate Judge Coffin filed his Findings and Recommendation ("F&R") (doc. 126), recommending this Court grant defendants' Motions for Summary Judgment (docs. 50, 57) and Motions to Resume Stayed Proceedings (docs. 100, 105, & 108). Judge Coffin also recommended denying plaintiff's Motion for Sanctions (doc. 100). The F&R is now before me pursuant to 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72. I review *de novo* those portions of the F&R to which objection is made. 28 U.S.C. § 636(b)(1)(C); *accord* Fed. R. Civ. P. 72(b)(3); *Holder v. Holder*, 392 F.3d 1009, 1022 (9th Cir. 2004).

Objections to the F&R were due November 8, 2017. Plaintiff did not file his objections until November 30, 2017, making his objections more than three weeks late. Plaintiff provided

no explanation for the delay. Plaintiff filed a motion for a stay November 3, 2017, but the Court never ruled on that motion; in the absence of a stay, plaintiff was bound by the deadlines set by Judge Coffin. When a party fails to timely object to an F&R, the district judge has discretion to find that the right to *de novo* review has been waived. *Thomas v. Arn*, 474 U.S. 140, 151–52 (1985). Under such circumstances, review is for "clear error on the face of the record[.]" Fed. R. Civ. P. 72 advisory committee's note (1983) (citing *Campbell v. United States District Court*, 501 F.2d 196, 206 (9th Cir. 1974)); *see also United States v. Vonn*, 535 U.S. 55, 64 n.6 (2002) (stating that, "[i]n the absence of a clear legislative mandate, the Advisory Committee Notes provide a reliable source of insight into the meaning of" a federal rule).

Regardless of whether I apply the *de novo* review or the more deferential clear error standard, I find no error in Judge Coffin's reasoning and agree that plaintiff's federal claims are barred by the *Rooker-Feldman* doctrine: plaintiff is improperly seeking review of a final state court determination in a federal district court, which is a court of original—not appellate—jurisdiction. *See Ignacio v. Judges of the U.S. Court of Appeals for the Ninth Circuit*, 453 F.3d 1160, 1165 (9th Cir. 2006). I also agree that, in the alternative, plaintiff's federal claims are barred by the *Younger* abstention doctrine, which prevents federal district courts from intervening in certain ongoing state judicial proceedings. *See San Jose Silicon Valley Chamber of Commerce Political Action Comm. v. City of San Jose*, 546 F.3d 1087, 1092–94 (9th Cir. 2008). Finally, I agree that plaintiff's federal claims are foreclosed in this court by the doctrine of issue preclusion. *See Dodd v. Hood River Cty.*, 136 F.3d 1219, 1225–28 (9th Cir. 1998). As a result, I cannot allow plaintiff's federal claims to proceed in this court. I therefore ADOPT Judge Coffin's F&R (doc. 126) and GRANT defendants' Motions for Summary Judgment (docs.

50 & 57) and Motions to Resume Stayed Proceedings (docs. 104, 105, & 108). I DENY plaintiff's Motion for Sanctions (doc. 100).

IT IS SO ORDERED.

Dated this 2ND day of ~~December 2017~~ January 2018.

Ann Aiken
United States District Judge